



May 16, 2005

Hugh MacDiarmid, President & Chief Executive Officer
Kevin Benson, President & Chief Executive Officer
Laidlaw Transit Inc. *dba* Laidlaw Education Services
55 Shuman Blvd. #400
Naperville, IL 60563

Re: Notice of Violation of the Safe Drinking Water and Toxic Enforcement Act of 1986
(Proposition 65), Section 25249.6 of the California Health and Safety Code, for Exposing
All Passengers on Diesel School Buses to Diesel Engine Exhaust Without a Warning

Dear Mr. MacDiarmid & Mr. Benson:

The Environmental Law Foundation ("ELF") is a California non-profit organization dedicated to the preservation and enhancement of human health and the environment. ELF has a long-standing interest in reducing health hazards to the public posed by toxic chemicals. Our Children's Earth Foundation ("OCE") is a California non-profit organization dedicated to protecting the public, especially children, from the harmful effects of air and water pollution. OCE has an interest in reducing the harmful effects of toxic air pollution.

This letter constitutes notice that the entity listed below has violated and continues to violate provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code §§ 25249.5 *et seq.* Specifically, this entity has violated and continues to violate the warning requirement at § 25249.6 of the California Health and Safety Code, which provides, "No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual..."

Alleged Violator: Laidlaw Transit Inc. *dba* Laidlaw Education Services

School buses owned and operated by this entity for school districts in the State of California emit diesel engine exhaust, a chemical known to the state to cause cancer. At all

Think clearly about the future.

Our Children's Earth
100 First Street, Suite 100-367
San Francisco, CA 94105
(415) 896.5289 fax: (415) 896.5761
www.ocefoundation.org

relevant times and continuing to the present time, this entity has exposed and continues to expose all passengers on the buses it operates for school districts, within the state of California, to high levels of diesel engine exhaust, a toxic chemical emitted by the entity's diesel buses. Exposure has occurred through inhalation of the diesel engine exhaust from the buses.

Because diesel exhaust is a chemical listed in Proposition 65 as a cancer causing chemical, pursuant to Health and Safety Code § 25249.6 this entity was, and is, required to provide clear and reasonable warnings to all passengers on its buses before exposing the passengers on the bus to diesel engine exhaust emitted by its diesel buses. The warnings must state that the diesel buses emit a chemical known by the State of California to cause cancer. Pursuant to Health and Safety Code § 25249.7(d), ELF and OCE intend to bring suit in the public interest against the above named entity sixty days hereafter to correct the violation occasioned by the failure to warn all passengers on the buses of the exposure to diesel engine exhaust.

Pursuant to 22 California Code of Regulations § 12903(b)(1), attached is a copy of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," a summary of Proposition 65 prepared by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency.

Pursuant to Health and Safety Code § 25249.7(d)(1), the undersigned hereby include the attached Certificate of Merit, to wit, that the undersigned have consulted with one or more persons with relevant and appropriate experience or expertise who has or have reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of this notice, and that, based on that information, the undersigned believe there is a reasonable and meritorious case. Factual information sufficient to establish the basis of this Certificate of Merit is included with the notice that is served on the Attorney General and is provided to that office in confidence and is not to be disclosed except according to law.

While violations are occurring throughout the State of California, the noticing parties are unable to know for certain if violations are occurring in all of the 58 counties in California. Therefore, pursuant to 22 California Code of Regulations § 12903(c)(3), the noticing parties are providing this notice to the district attorney for each of the 58 counties in California. Further, the noticing parties provide this notice to the California Attorney General and the city attorneys for the cities of Los Angeles, San Diego, San Francisco and San Jose.

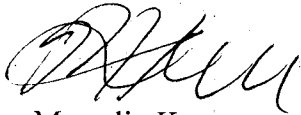
ELF is located at: 1736 Franklin, 9th Floor, Oakland, California 94612, telephone (510) 208-4555. OCE may be contacted at: 100 First Street, Suite 100-367, San Francisco, California, 94105, telephone (415) 896-5289. ELF and OCE are represented in this matter by the law firms of Bushnell, Caplan & Fielding, LLP and Altshuler, Berzon, Nussbaum, Rubin & Demain.

All communications concerning this matter should be directed to:

James Wheaton
Environmental Law Foundation
1736 Franklin, 9th Floor
Oakland, California 94612
Telephone: (510) 208-4555
Facsimile: (510) 208-4562

Marcelin Keever
Our Children's Earth Foundation
100 First Street, Suite 100-367
San Francisco, California, 94105
Telephone: (415) 896-5289
Facsimile: (415) 896-5761

Sincerely,



Marcelin Keever
Our Children's Earth Foundation

James Wheaton
Environmental Law Foundation

Attorneys for OCE & ELF

Enclosures

cc (without "Proposition 65: A Summary" attachment):

Attorney General of California (with attached confidential factual information supporting
Certificate of Merit)
Rockard J. Delgadillo, Los Angeles City Attorney
Michael Aguirre, San Diego City Attorney
Dennis J. Herrera, City Attorney of San Francisco
Richard Doyle, San Jose City Attorney
District Attorneys for California's 58 Counties (see attached proof of service)

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Marcelin E. Keever, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the parties identified in the notice have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

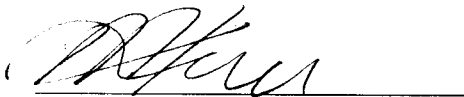
(2) I am an attorney for Our Children's Earth Foundation.

(3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

(4) Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

(5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), *i.e.*, (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: May 16, 2005



Marcelin E. Keever
Attorney for Our Children's Earth Foundation
and on behalf of Environmental Law Foundation

PROOF OF SERVICE

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within action; my business address is 177 Post Street, San Francisco, California 94108.

On May 16, 2005 I served the following document(s):

NOTICE OF VIOLATION OF THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65), SECTION 25249.6 OF THE CALIFORNIA HEALTH AND SAFETY CODE, FOR EXPOSING ALL PASSENGERS ON DIESEL SCHOOL BUSES TO DIESEL ENGINE EXHAUST WITHOUT A WARNING

by first class mail by placing a true and correct copy thereof in an envelope addressed to each of the persons named below at the address shown, and by sealing and depositing said envelope in the United States mail at San Francisco, California, with postage fully prepaid to:

Hugh MacDiarmid, President & Chief Executive Officer
Kevin Benson, President & Chief Executive Officer
Laidlaw Transit Inc. *dba* Laidlaw Education Services
55 Shuman Blvd., #400
Naperville, IL 60563

AND

SEE ATTACHED LIST

Executed on this 16th day of May, 2005 at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Edward Lin

The Honorable Thomas Orloff
District Attorney
ALAMEDA COUNTY
1225 Fallon Street, Room 900
Oakland, CA 94612

The Honorable William Richmond
District Attorney
ALPINE COUNTY
P.O. Box 248
Markleeville, CA 96120

The Honorable Todd Riebe
District Attorney
AMADOR COUNTY
708 Court Street, #202
Jackson, CA 95642

The Honorable Michael Ramsey
District Attorney
BUTTE COUNTY
25 County Center Drive
Oroville, CA 95965

The Honorable Jeffrey Tuttle
District Attorney
CALAVERAS COUNTY
891 Mountain Ranch Road
San Andreas, CA 95249

The Honorable John Poyner
District Attorney
COLUSA COUNTY
547 Market Street
Colusa, CA 95932

The Honorable Robert Kochly
District Attorney
CONTRA COSTA COUNTY
PO Box 670
Martinez, CA 94553

The Honorable Michael Riese
District Attorney
DEL NORTE COUNTY
450 H Street
Crescent City, CA 95531

The Honorable Gary Lacy
District Attorney
EL DORADO COUNTY
515 Main Street
Placerville, CA 95667

The Honorable Elizabeth Egan
District Attorney
FRESNO COUNTY
2220 Tulare Street, #1000
Fresno, CA 93721

The Honorable Robert Holzapfel
District Attorney
GLENN COUNTY
P.O. Box 430
Willows, CA 95988

The Honorable Paul Gallegos
District Attorney
HUMBOLDT COUNTY
825 5th Street
Eureka, CA 95501

The Honorable Gilbert Otero
District Attorney
IMPERIAL COUNTY
939 West Main Street
El Centro, CA 92243

The Honorable Arthur Maillet
District Attorney
INYO COUNTY
P.O. Drawer D
Independence, CA 93526

The Honorable Edward Jagels
District Attorney
KERN COUNTY
1215 Truxtun Avenue
Bakersfield, CA 93301

The Honorable Ronald Calhoun
District Attorney
KINGS COUNTY
1400 West Lacey Blvd.
Hanford, CA 93230

The Honorable Gerhard Luck
District Attorney
LAKE COUNTY
255 N. Forbes Street
Lakeport, CA 95453

The Honorable Robert Burns
District Attorney
LASSEN COUNTY
220 S. Lassen Street, Ste. 8
Susanville, CA 96130

The Honorable Steve Cooley
District Attorney
LOS ANGELES COUNTY
210 West Temple Street, Ste. 18000
Los Angeles, CA 90012

The Honorable Ernest LiCalsi
District Attorney
MADERA COUNTY
209 West Yosemite Avenue
Madera, CA 93637

The Honorable Edward Berberian
District Attorney
MARIN COUNTY
3501 Civic Center Drive, Rm. 130
San Rafael, CA 94903

The Honorable Robert Brown
District Attorney
MARIPOSA COUNTY
P.O. BOX 730
Mariposa, CA 95338

The Honorable Norman Vroman
District Attorney
MENDOCINO COUNTY
P.O. BOX 1000
Ukiah, CA 95482

The Honorable Gordon Spencer
District Attorney
MERCED COUNTY
2222 M Street
Merced, CA 95340

The Honorable Jordan Funk
District Attorney
MODOC COUNTY
204 S. Court Street
Alturas, CA 96101

The Honorable George Booth
District Attorney
MONO COUNTY
P.O. BOX 617
Bridgeport, CA 93517

The Honorable Dean Flippo
District Attorney
MONTEREY COUNTY
240 Church Street, #101
Salinas, CA 93901

The Honorable Gary Lieberstein
District Attorney
NAPA COUNTY
931 Parkway Mall
Napa, CA 94559

The Honorable Michael Ferguson
District Attorney
NEVADA COUNTY
201 Church Street, Suite 8
Nevada City, CA 95959

The Honorable Tony Rackauckas
District Attorney
ORANGE COUNTY
401 Civic Center Drive
Santa Ana, CA 92701

The Honorable Bradford Fenocchio
District Attorney
PLACER COUNTY
11562 B Avenue
Auburn, CA 95603

The Honorable Jeff Cunan
District Attorney
PLUMAS COUNTY
520 Main Street, Room 404
Quincy, CA 95971

The Honorable Grover Trask II
District Attorney
RIVERSIDE COUNTY
4075 Main Street
Riverside, CA 92501

The Honorable Jan Scully
District Attorney
SACRAMENTO COUNTY
901 G Street
Sacramento, CA 95814

The Honorable John Sarsfield
District Attorney
SAN BENITO COUNTY
419 4th Street, Second Floor
Hollister, CA 95023-3801

The Honorable Michael Ramos
District Attorney
SAN BERNARDINO COUNTY
316 N. Mountain View Avenue
San Bernardino, CA 92415

The Honorable Bonnie Dumanis
District Attorney
SAN DIEGO COUNTY
330 W. Broadway, Suite 1320
San Diego, CA 92101

The Honorable Kamala Harris
District Attorney
SAN FRANCISCO COUNTY
880 Bryant Street, Room 325
San Francisco, CA 94103

The Honorable James Willett
District Attorney
SAN JOAQUIN COUNTY
P.O. BOX 990
Stockton, CA 95201

The Honorable Gerald Shea
District Attorney
SAN LUIS OBISPO COUNTY
County Govt. Center
Fourth Floor, Annex
San Luis Obispo, CA 93408

The Honorable James Fox
District Attorney
SAN MATEO COUNTY
400 County Center, Third Floor
Redwood City, CA 94063

The Hon. Thomas Sneddon, Jr.
District Attorney
SANTA BARBARA COUNTY
1105 Santa Barbara Street
Santa Barbara, CA 93101

The Honorable George Kennedy
District Attorney
SANTA CLARA COUNTY
70 West Hedding Street, West Wing
San Jose, CA 95110

The Honorable Bob Lee
District Attorney
SANTA CRUZ COUNTY
701 Ocean Street, Room 200
Santa Cruz, CA 95060

The Honorable Gerald Benito
District Attorney
SHASTA COUNTY
1525 Court Street, Third Floor
Redding, CA 96001-1632

The Honorable Lawrence Allen
District Attorney
SIERRA COUNTY
Courthouse
P.O. BOX 457
Downieville, CA 95936

The Honorable James Andrus
District Attorney
SISKIYOU COUNTY
P.O. BOX 986
Yreka, CA 96097

The Honorable David Paulson
District Attorney
SOLANO COUNTY
675 Texas Street, Suite 4500
Fairfield, CA 94533

The Honorable Stephan Passalacqua
District Attorney
SONOMA COUNTY
600 Administration Drive, Rm. 212J
Santa Rosa, CA 95403

The Honorable James Brazelton
District Attorney
STANISLAUS COUNTY
800 11th Street, Room 200
P.O. BOX 442
Modesto, CA 95353

The Honorable Carl Adams
District Attorney
SUTTER COUNTY
446 Second Street
Yuba City, CA 95991

The Honorable Gregg Cohen
District Attorney
TEHAMA COUNTY
P.O. BOX 519
Red Bluff, CA 96080

The Honorable David Cross
District Attorney
TRINITY COUNTY
P.O. BOX 1310
Weaverville, CA 96093

The Honorable Phillip Cline
District Attorney
TULARE COUNTY
221 South Mooney Blvd., Ste 224
Visalia, CA 93291

The Hon. Donald Segerstrom, Jr.
District Attorney
TUOLUMNE COUNTY
423 No. Washington Street
Sonora, CA 95370

The Honorable Gregory Totten
District Attorney
VENTURA COUNTY
800 South Victoria Avenue
Ventura, CA 93009

The Honorable David Henderson
District Attorney
YOLO COUNTY
301 Second Street
Woodland, CA 95695

The Honorable Patrick McGrath
District Attorney
YUBA COUNTY
215 Fifth Street
Marysville, CA 95901

The Honorable Rockard Delgadillo
City Attorney
CITY OF LOS ANGELES
200 N. Main Street
Los Angeles, CA 90012

The Honorable Michael Aguirre
City Attorney
CITY OF SAN DIEGO
1200 Third Avenue, 3rd Floor
San Diego, CA 92101

The Honorable Dennis Herrera
City Attorney
CITY OF SAN FRANCISCO
City Hall, Room 234
San Francisco, CA 94102

The Honorable Richard Doyle
City Attorney
CITY OF SAN JOSE
151 W. Mission St.
San Jose, CA 95110

Attorney General of California
Prop. 65 Enforcement Reporting
Attention: Prop. 65 Coordinator
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, California 94612-0550